

## **DISCLAIMER**

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## **APPLICATION OF**

**VIRGINIA ELECTRIC AND POWER COMPANY**

**CASE NO. PUE-2001-00664**

**To revise its cogeneration tariff pursuant  
to PURPA Section 210**

## **REPORT OF MICHAEL D. THOMAS, HEARING EXAMINER**

**September 10, 2002**

### **History of the Case**

On March 18, 2002, Virginia Electric and Power Company (“Virginia Power” or the “Company”) filed with the Commission an application, written testimony, and exhibits to support its proposal to change its cogeneration and small power production payments under Schedule 19. The proposed Schedule 19 utilizes market-based pricing rather than administratively-determined avoided costs to determine the Company’s payments to qualifying facilities for energy purchased under the Public Utility Regulatory Policies Act of 1978 (“PURPA”). Virginia Power further proposes that Schedule 19 remain in effect for 2002 and 2003.

By order entered on June 13, 2002, the Commission scheduled a hearing on the application, established a procedural schedule for filing testimony and evidence, and appointed a Hearing Examiner to hear the case.

Appalachian Power Company, d/b/a American Electric Power Company; Michigan Cogeneration Systems, Inc. d/b/a Landfill Energy Systems; Scott Wood, Inc.; and Tractebel North America filed timely Notices of Participation in this case, which were subsequently withdrawn by the parties. The Company and the Staff are the only parties remaining in this proceeding.

On September 5, 2002, the evidentiary hearing was convened as scheduled. Donald G. Owens, Esquire, and Jill C. Hayek, Esquire, appeared on behalf of Virginia Power. Arlen K. Bolstad, Esquire, appeared on behalf of the Staff. No public witnesses appeared at the hearing. Proof of notice was received into the record and marked as Exhibit A. A copy of the transcript is being filed with this Report.

### **Discussion**

With the transition of energy markets towards competition, Virginia Power proposes to change the methodology it uses to calculate payments to its cogeneration and small power production qualifying facilities (collectively “QFs”) under Schedule 19. The proposed Schedule

19 utilizes market-based pricing to determine the Company's avoided costs, rather than the traditional differential revenue requirement ("DRR") methodology.

Virginia Power raises three primary arguments in support of its application. First, market-based pricing is appropriate as the energy markets in Virginia are changing from a monopoly-based market to a competitive market where customers can purchase energy from a variety of providers. Second, the Company's forecast for the period 2002 through 2007 shows that it will meet its future energy needs from purchases in the marketplace. Finally, wholesale markets have matured to the point where they can be used to determine the wholesale cost of electricity in Virginia. (Ex. 1, at 2-3).

Virginia Power proposes to offer QFs two options:

- (1) New QFs and existing QFs whose contracts stipulate payments under Schedule 19, will be paid the market-based rates contained in the proposed Schedule 19.
- (2) QFs whose contracts stipulate payments based on components of the DRR model may elect to either:
  - (a) receive the market-based rates contained in the proposed Schedule 19; or
  - (b) continue to receive payments estimated using components of the existing DRR methodology during the 2002 – 2003 period.

Ex. 5, at 4.

The QFs that fall under number (1) above are: Alexandria/Arlington MSW Facility; Kirk Lumber; Merck Facility; Rivanna Water & Sewer; Southeastern Public Service Authority; and Brasfield Dam (only non-firm energy rate portion of the contract). The QFs that fall under number (2) above are: Stone Container Corporation; I-95 Landfill; I-95 II; Richmond Electric Corporation; and Suffolk Landfill. (Ex. 2, at 3; Ex. 6).

Virginia Power proposes adopting the methodology used in the Commission's Retail Choice case to determine market prices for Schedule 19.<sup>1</sup> In that case, the PJM West and Cinergy markets were used to derive rates for the Retail Choice program. Virginia Power believes the same methodology would be appropriate for Schedule 19. The methodology produced on-peak and off-peak market rates for 2002 along with a charge for transmission and ancillary service. Virginia Power added the transmission and ancillary service charge to the average of the PJM West and Cinergy annual prices to calculate its on-peak energy price of 3.454¢/kWh and off-peak energy price of 2.044¢/kWh. These prices do not include a line loss percentage adder. The DRR methodology results in an on-peak rate of 3.067¢/kWh and an off-peak rate of 2.303¢/kWh. Virginia Power proposes that the Retail Choice market rate data for 2003, be used to determine its Schedule 19 market-based prices for 2003. (Ex. 1, at 4-5; Ex. 2, at 3-4; Tr. at 13).

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<sup>1</sup> *Ex Parte: In the matter of considering requirements relating to wires charges pursuant to the Virginia Electric Utility Restructuring Act*, Case No. PUE-2001-00306 (Order, November 19, 2001).

The Staff's only concern with proposed Schedule 19 related to the term of contract language found in Section VII. It appeared to the Staff that the Company would not enter into a contract of less than one year. To address the Staff's concern, the Company amended the language in that Section to make it clear that the term of the contract would be as mutually agreed upon by the parties, but in no event would it extend beyond December 31, 2003. With that change, the Staff recommends that the Commission approve Virginia Power's proposed Schedule 19, as revised. (Ex. 4, at 12; Ex. 7).

The methodology employed by Virginia Power to calculate its market rates for purchases of electricity from QFs certainly appears reasonable. The market-based rates that were derived are generally more favorable to the QFs than the DRR-derived rates. For the on-peak period, which runs from 7:00 a.m. to 11:00 p.m., the period the QFs are most likely to be in operation and able to provide excess electricity into the electric grid, the rate increased from 3.067¢/kWh to 3.454¢/kWh. Virginia Power's request to use the same methodology for 2003 also appears reasonable.

### **Findings and Recommendations**

Based on the evidence in the case, and for the reasons set forth above, I find that:

- (1) The methodology used by Virginia Power to derive its Schedule 19 energy purchase prices for 2002 is reasonable;
- (2) The Commission should permit Virginia Power to use the same methodology to compute its Schedule 19 energy purchase prices for 2003;
- (3) The Company's proposed revisions to Schedule 19, Section VII (Term of Contract) clarifies the contract and should be approved by the Commission; and
- (4) The Commission should approve the use of Virginia Power's proposed Schedule 19, as revised and attached hereto.

I therefore **RECOMMEND** the Commission enter an order that:

- (1) **ADOPTS** the findings contained in this Report;
- (2) **APPROVES** Virginia Power's use of Schedule 19 ("Power Purchases from Cogeneration and Small Power Production Qualifying Facilities"), as revised, for 2002 and 2003; and
- (3) **DISMISSES** this case from the Commission's docket of active cases.

## **Comments**

The parties are advised that any comments (Section 12.1-31 of the Code of Virginia and 5 VAC 5-20-120 C) to this Report must be filed with the Clerk of the Commission in writing, in an original and fifteen (15) copies, within ten (10) days from the date hereof. The mailing address to which any such filing must be sent is Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Any party filing such comments shall attach a certificate to the foot of such document certifying that copies have been mailed or delivered to all counsel of record and any such party not represented by counsel.

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Michael D. Thomas  
Hearing Examiner